

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	:
BERNARD L. MADOFF INVESTMENT	:
SECURITIES LLC,	:
	:
Debtor.	:
	:
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PERTAINS TO THE FOLLOWING CASE:	:
	:
IRVING H. PICARD, Trustee for the Liquidation	:
of Bernard L. Madoff Investment Securities LLC,	:
	:
Plaintiff,	:
	:
-v-	:
	:
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:
ASCOT FUND LTD., GABRIEL CAPITAL	:
CORPORATION,	:
	:
Defendants.	:
	:
----- X	:

Adv. Proc. No. 08-01789 (SMB)
SIPA LIQUIDATION
(Substantively Consolidated)

Adv. Proc. No. 09-1182 (SMB)

**DECLARATION OF DAPHNE T. HA IN SUPPORT OF MOTION
IN LIMINE BY DEFENDANTS TO EXCLUDE TESTIMONY,
REPORTS, AND DECLARATION OF STEVE POMERANTZ**

I, Daphne T. Ha, declare as follows:

1. I am an associate at the law firm of Dechert LLP, counsel to Defendants J. Ezra Merkin and Gabriel Capital Corporation.
2. I make this Declaration to put before the Court certain documents related to Defendants' Motion *in limine* to exclude the reports, declaration, and proposed testimony of Steve Pomerantz.
3. Attached to this Declaration as Exhibit A is a copy of the Initial Expert Report of Steve Pomerantz dated March 20, 2015.

4. Attached to this Declaration as Exhibit B is a copy of the Rebuttal Expert Report of Steve Pomerantz dated May 15, 2015.

5. Attached to this Declaration as Exhibit C is a copy of the Declaration of Steve Pomerantz dated November 24, 2015.

6. Attached to this Declaration as Exhibit D is a copy of an excerpt from the deposition transcript of Steve Pomerantz dated July 8, 2015.

7. Attached to this Declaration as Exhibit E is a copy of a due diligence questionnaire published by the Alternative Investment Management Association in 1997.

8. Attached to this Declaration as Exhibit F is an excerpt from a hearing transcript from *Picard v. Mets Ltd. P'ship*, No. 11 Civ. 3605, ECF No. 139 (S.D.N.Y. Feb. 23, 2011).

9. Attached to this Declaration as Exhibit G is a copy of the Expert Report of Steve Pomerantz dated November 22, 2001 filed in *Picard v. Mets Ltd. P'ship*, No. 11 Civ. 3605, ECF No. 105-2 (Bankr. S.D.N.Y. Jan. 26, 2012).

10. Attached to this Declaration as Exhibit H is a copy of Trustee's Response to Defendants Joint Statement of Material Facts Pursuant to Local Bankruptcy Rule 7056-1 in *Picard v. Merkin*, Adv. Proc. No. 09-01182 (SMB), ECF No. 292 (Bankr. S.D.N.Y. Nov. 25, 2015).

Dated: New York, New York
April 7, 2017

/s/ Daphne T. Ha

Daphne T. Ha

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